



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board North Coast Region

William R. Massey, Chairman

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Arnold  
Schwarzenegger  
Governor

September 28, 2006

Mr. Ole Wik  
Mendocino County Department of Transportation  
340 Lake Mendocino Drive  
Ukiah, CA 95482

Dear Mr. Wik:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Elkhorn Road and Short Creek Road Storm Damage Repair Project

File: Mendocino County Department of Transportation, Elkhorn Road and Short Creek Road Storm Damage Repair Project, Mendocino County, WDID Nos. 1B06108WNME, 1B06140WNME, 1B06141WNME, 1B06142WNME

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). On August 3, 2006, the Regional Water Board received an application from Mr. Ole Wik, on behalf of the Mendocino County Department of Transportation (Applicant), requesting Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Elkhorn Road and Short Creek Road Storm Damage Repair Project (Project), located in Mendocino County. On August 14, 2006, the Regional Water Board received a \$543.00 processing fee. On September 11, September 13, and September 14, 2006, the Regional Water Board received additional information regarding the Project. On September 29, 2006, the Regional Water Board received an additional processing fee of \$709.50.

Information describing the Project was noticed for public comment on the Regional Water Board's website on September 25, 2006. Under Title 23, California Code of Regulations, Section 3858(a): "The executive director or the executive officer with whom an application for certification is filed shall provide public notice of an application at least twenty-one (21) days before taking certification action on the application, unless the public notice requirement has been adequately satisfied by the applicant or federal agency. If the applicant or federal agency provides public notice, it shall be in a manner and to an extent fully equivalent to that normally provided by the certifying agency. If an

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emergency requires that certification be issued in less than 21 days, public notice shall be provided as much in advance of issuance as possible, but no later than simultaneously with issuance of certification." Due to the urgent nature of the Project and the need to complete the storm damage repair as soon as possible, this Order is being issued within the 21-day public comment period. Public comments will still be accepted and reviewed during the entire 21-day comment period; and the Order may be modified.

The Project will impact Waters of the United States associated with Rancheria Creek and the Garcia River Hydrologic Area No. 113.70 as well as Short Creek and the Middle Reach of the Eel River Hydrologic Area No. 111.70.

**Project Description:** The Project has five locations; four sites are located on Elkhorn Road at post miles 2.92, 4.15, 4.25, and 4.65. Elkhorn Road is located southeast of Yorkville on State Highway 128. The fifth site is located on Short Creek Road at post mile 1.13. Short Creek Road is accessible from State Highway 162 via East Lane in Covelo.

The purpose of the Project is to repair storm damage that occurred during the 2005/2006 winter. The Elkhorn Road sites at post miles 4.15, 4.25, and 4.65 and the Short Creek Road site will include rebuilding road embankments and shoulders in areas damaged by erosion during the winter storms. The Elkhorn Road site at post mile 2.92 will include restoring a partially rusted culvert that conveys Rancheria Creek under Elkhorn Road, and repairing a sinkhole that appeared in the road shoulder near the inlet of the culvert during high storm flows.

The work at the three sites on Elkhorn Road at post miles 4.15, 4.25, and 4.65 will include reconstruction of the embankments with rock slope protection, and reinforcing the shoulders with application of new gravel. There are no wet pools near these sites, so there are no fish related concerns. In order to construct a more robust, erosion-resistant embankment, a trench will be dug at the toe of the slope for the placement of one-ton rip rap. Geotextile material will be placed on the damaged embankment, and the slope will be rebuilt with half-ton rip rap. The shoulder will be rebuilt with gravel.

The work at the Short Creek Road site will include restoring the embankment, and armoring it with rock slope protection. Rock groins, backed with willow plantings, will be installed in order to

slow the current, trap sediment, and eventually develop a biological barrier to ward off future erosion damage.

At the Elkhorn Road post mile 2.92 site, the Applicant will prepare a shaped bed and place rock slope protection at the downstream end of the culvert. The rusted culvert will be lined with concrete. Work to repair the sinkhole will include filling the bottom six feet with cobbles, covering the cobbles with imported borrow material, and rebuilding the shoulder with aggregate base.

The total area of permanent fill associated with the project is approximately 0.35 acres.

Receiving Water:	Rancheria Creek and the Garcia River Hydrologic Area No.113.70 as well as Short Creek and the Middle Reach of the Eel River Hydrologic Area No. 111.70
Federal Permit:	Pending U.S. Army Corps of Engineers Individual 404 Permit
State and Local Approvals:	California Department of Fish and Game 1600 permit – Exempt under the Firestone Act
Filled or Excavated Area:	<u>Total Area Impacted: 0.35 acres of seasonal wetland and stream habitat</u>
Area Temporarily Impacted:	0.00 acres
Area Permanently Impacted:	0.35 acres
Compensatory Mitigation:	None required
Non-compensatory Mitigation:	Best management practices (BMPs) have been incorporated into the Project to prevent soil erosion and discharge of sediment to Waters of the State. Exposed soils at all sites are to be reseeded with a native seed mix for long-term soil stabilization. All exposed soil shall be permanently stabilized at the earliest practicable date.
CEQA Compliance:	The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that the Project is

categorically exempt under Class 15301 for existing facilities pursuant to CEQA.

Standard  
Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to the Project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23) 23 CCR 3867.
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23 and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23 and owed by the Applicant.

Additional  
Conditions:

Pursuant to 23 CCR 3859(a), the Applicant shall comply with the following additional conditions:

1. The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the start of the Project, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise.
2. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that

authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into Waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream, Waters of the State or Waters of the United States.

3. BMPs for erosion, sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment discharges to surface waters.
4. All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of fill work.
5. A copy of this Order shall be provided to the contractor and all subcontractors conducting the work, and shall be in their possession at the work site.
6. If, at any time, a discharge to surface waters occurs not authorized by this Order, or any water quality problem arises, the Project shall cease immediately and the Regional Water Board shall be notified promptly.
7. The Project shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
8. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the

Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

9. The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work after the first significant rainfall event in order to ensure that erosion control has been successful.

Water Quality  
Certification:

I hereby issue an Order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from the Elkhorn Road and Short Creek Road Storm Damage Repair Project (WDID Nos. 1B06108WNME, 1B06140WNME, 1B06141WNME, 1B06142WNME) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)] , and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017- DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (Enclosed).

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this Order for any dredge and fill activities expires on October 15, 2011. Conditions and monitoring

requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Mona Dougherty at (707) 570-3761 and in writing prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,



Catherine E. Kuhlman  
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ,  
General Waste Discharge Requirements for Dredge and Fill Discharges  
That Have Received State Water Quality Certification.

cc: Mr. Oscar Balaguer, SWRCB, 401 Program Manager  
Ms. Samantha Olson, SWRCB, Office of the Chief Counsel  
U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street,  
San Francisco, CA 94105  
Ms. Corinne Gray, Department of Fish and Game, Region 3, P.O. Box 47,  
Yountville, CA 95499  
Mr. Dick Butler, NOAA Fisheries, 777 Sonoma Avenue, Suite 325,  
Santa Rosa, CA 95404